

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

**ANGELA ANDERSON, Personally,
and on behalf of the WRONGFUL DEATH BENEFICIARIES
of PRINCESS ANDERSON, Deceased**

PLAINTIFF

v.

**No.
3:12-CV-92-DMB-SAA**

**MARSHALL COUNTY, MISSISSIPPI, and
BAPTIST MEMORIAL HOSPITAL - DESOTO**

DEFENDANTS

PLAINTIFF'S DEMAND FOR JURY TRIAL

COMES NOW Plaintiff, by and through counsel, and for this her Demand for Jury Trial and Motion for Jury Trial, hereby sets forth the following:

1. Plaintiff's complaint did not contain a jury demand within the complaint document itself, though a jury demand was requested and noted in the civil cover sheet. The Defendant Baptist Memorial Hospital-DeSoto in its answer did request a jury trial; Defendant Marshall County did not request a jury trial.

2. Federal Rule of Civil Procedure 38(b) provides that a party may demand a jury trial by serving the other parties with a written demand no later than 14 days "after the last pleading directed to the issue is served." To the extent that the last pleading directed to the issue has been served within the last 14 days, or will be served prior to trial, as referenced in this rule, Plaintiff hereby demands a jury trial for a determination of all issues raised in Plaintiff's Complaint and the applicable Pre-Trial Order.

3. Federal Rule of Civil Procedure 39(b) provides that when no jury demand is made, “the Court may, on motion, order a jury trial on any issue for which a jury might have been demanded.” Therefore, to the extent that “the last pleading directed to the issue” has not been served or will not be served in accordance with Federal Rule of Civil Procedure 38(b)(1), the Plaintiff hereby moves this Court to order a jury trial as to all claims set forth in the Pre-Trial Order. Plaintiff would further note that under the Rules it is within the Court’s discretion to do so, and for purposes of efficiency and consistency it would make sense since one of the Defendants has already requested a jury trial and certainly Plaintiff intended to as noted in the civil cover sheet. Therefore, with a jury being impaneled in this case anyway, and the cost of the jury being incurred already, there would be no prejudice to any party, should the Court grant Plaintiff’s Motion. Further, trying the entire case to the jury rather than attempting to bifurcate a jury trial and bench trial would be a more efficient use of judicial resources and the parties’ time and resources as well. An additional benefit would be the avoidance of the possibility of inconsistent verdicts which can occur when two different fact finders are deciding a case.

WHEREFORE, premises considered, Plaintiff requests this Court for a jury trial as to all issues in Plaintiff’s complaint and the Pre-Trial Order to be tried before a jury and determined by a jury, together with such other relief as this Court may deem just and proper.

This, the 21st day of December, 2014.

Respectfully submitted,

CHAPMAN, LEWIS & SWAN, PLLC
Attorney for Plaintiff
501 First Street
P.O. Box 428
Clarksdale, MS 38614
(662) 627-4105 Phone
(662) 621-2538 Facsimile

By: s/Daniel M. Czamanske, Jr.
MSB No. 10812
dan@chapman-lewis-swan.com

THE COCHRAN FIRM – MEMPHIS
Attorney for Plaintiff
One Commerce Square, Suite 1700
Memphis, TN 38103
(901) 523-1222 Phone
(901) 523-1999 Facsimile
By: s/Danese K. Banks.
Pro Hac Vice
dbanks@cochranfirm.com

CERTIFICATE OF SERVICE

I, Daniel M. Czamanske, Jr., do hereby certify that I have this day electronically filed a true and correct copy of the above and foregoing document with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

David D. O'Donnell
dodonnell@claytonodonnell.com
Attorney for Defendants Marshall County, MS
and Kenny Dickerson

Ray Hill
rhill@claytonodonnell.com
Attorney for Defendants Marshall County, MS
and Kenny Dickerson

Walter Alan Davis
waltdavis@dunbardavis.com
Attorney for Defendant BMH-Desoto, Inc.

This, the 21st day of December, 2014.

s/Daniel M. Czamanske, Jr.
DANIEL M. CZAMANSKE, JR.